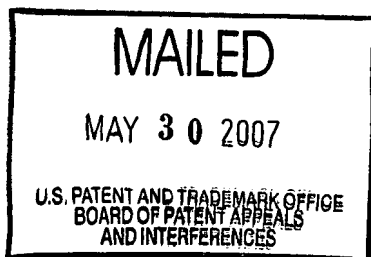


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte DANIEL E. GRUPP

Application 09/612,607

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on March 20, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matter requiring attention prior to docketing is identified below.

EXAMINER'S ANSWER

Section § 1207.02 of the Manual of Patent Examining Procedure (MPEP) (8th Ed., Rev. 3, August 2005) states:

Requirements for Examiner's Answer

The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

....

(8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

It is noted that while the Examiner's Answer mailed February 3, 2006, states that "[n]o evidence is relied upon by the examiner in the rejection of the claims under appeal" [page 3, under the caption "Evidence Relied Upon"], the claim rejection is listed on page 3 as follows:

Claims 23, 24, and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Ellenbogen (U.S. patent 6,339,227).

Correction is required.

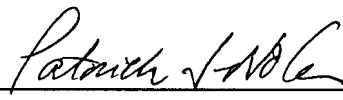
CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) issue and mail a form PTOL-90, citing the references used to reject the claims on appeal; and
- 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 
PATRICK J. NOLAN
Deputy Chief Appeals Administrator
(571) 272-9797

PJN/psb

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